

HR Weekly Podcast
June 4, 2014

Today is June 4, 2014 and welcome to the HR Weekly Podcast from the State Human Resources Division. This week's Podcast deals with a recent case involving payment of unpaid wages in violation of the Fair Labor Standards Act, or FLSA, and the South Carolina Payment of Wages Act, or PWA.

Information used to develop this podcast was gathered from an article written by Richard Morgan in the South Carolina Employment Law Letter. For production and maintenance, employees of Columbia Farms, Inc., a chicken processor in Greenville, South Carolina, were paid wages governed by a collective bargaining agreement, or CBA, between the company and the local chapter of the United Food and Commercial Workers International Union. The CBA spelled out basic contract terms such as a basic workday being 8 hours, a basic workweek being 40 hours, and hourly rates of pay for different classes of employees.

The CBA noted that, in November 2004, Columbia Farms and the union negotiated a change to the company's "meal and rest policy" in exchange for a one-time 3.1 percent raise in employees' hourly rates. Also, Columbia Farms agreed "not to enter into any other agreement or contract with its employees, individually or collectively, [that would] in any way conflict with the terms and provisions of [the CBA]."

While the CBA did not specify how employees' compensable work time would be calculated, Columbia Farms had a long-standing practice of paying production employees based on "line time" (for example, the time an employee spent processing chickens on the production line.) "Line time" did not include time spent donning and doffing protective gear, walking to and from the production area, or washing gear before and after work. Columbia Farms stopped the production line for two 30-minute periods per shift to provide employees with meal breaks, which were not considered compensable time under the CBA.

In 2009, a group of current and former employees, who were members of the bargaining unit, sued Columbia Farms for wages due under the FLSA and PWA. The employees asserted that they should have been paid for time spent donning and doffing protective gear and preparing for work. Also, since their break times were less than 20 minutes, they argued that Columbia Farms was required to compensate them under federal regulations. The lawsuit included an allegation that the company failed to notify the employees in writing of the hours they would work when they were hired.

Before trial, the trial court dismissed the FLSA claims, but permitted the PWA claims to go forward. A jury awarded the employees \$16,583 in the aggregate, which the trial court tripled to \$49,749 and assessed attorney's fees and costs, for a total of \$227,640.

On appeal, the United States Court of Appeals for the Fourth Circuit reviewed Columbia Farms' claim that the wage issue was improperly presented to the jury. Columbia Farms contended that the employees' PWA claims were preempted by the Labor Management Relations Act, or LMRA, and should have been dismissed. Columbia Farms argued that the PWA provides for an enforcement mechanism to ensure that employees timely receive all wages to which they are entitled under an employment contract. Thus, Columbia Farms contended that the employees' entitlement to unpaid wages turned on the application and construction of the CBA, which established the terms and conditions of employment at the Greenville plant through its express terms and the customs and practices developed under it.

The Fourth Circuit noted that the employees' PWA claims were nothing more than a disagreement with Columbia Farms' interpretation of how to calculate their hours worked under the CBA, including the two unpaid breaks that were required by the contract. The court therefore reversed the jury's award to the employees, concluding that their PWA claims were preempted by the LMRA and should have been dismissed.

Employers need to make sure that they meet the PWA's written notice requirements. The requirements include the time-of-hire notice and notices for changes in normal work hours, wages paid, time and place of payment, day of the week wages are paid, and deductions from wages. Notices must be provided at least seven days in advance.

If you have a question about this topic, please contact your HR Consultant at 803-896-5300. Thank you.